

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

May 8, 2012

DATE THE DECISION ISSUED

April 4, 2012

LIBRARY USERS ASSOCIATION v ARTS COMMISSION (CASE NO. 12004)

FACTS OF THE CASE

Complainant Library Users Association alleges that the San Francisco Arts Commission ("SFAC") violated the Sunshine Ordinance by requiring an appointment to review audio recordings of SFAC meetings and limiting access to audio equipment to one hour during the work week.

COMPLAINT FILED

On January 13, 2012, Library Users Association filed a complaint with the Sunshine Ordinance Task Force ("Task Force") alleging that the SFAC required an appointment to review audio recordings of SFAC meetings and limited access to audio equipment to one hour per week.

HEARING ON THE COMPLAINT

On April 4, 2012, Library Users Association Executive Director Peter Warfield appeared before the Task Force and presented the Library Users Association's complaint. Julio Matos, part-time contract clerk with the SFAC, appeared on behalf of the SFAC and presented its response.

During November and December of 2011, Mr. Warfield requested to inspect audio recordings of SFAC meetings held from September 2009 to December 2009 and from September 2011 to December 2011. He preferred to listen to the recordings at the SFAC office because the audio equipment available there allowed him to skip forward or backward through the recording rather than having to listen to an entire meeting.

Sharon Page Ritchie, SFAC Secretary and the person with custody of the recordings, informed Mr. Warfield he could listen to the recordings when the SFAC office conference room was not in use, and offered a choice of one of three available afternoon hours during the work week. Mr. Warfield stated to the Task Force that this is an outrageous restriction on public access to records that are required to be available for inspection during normal business hours. He further stated that one hour is insufficient time to listen to the complete recording of a meeting, which is usually more than one hour in length. He noted that other rooms are available for listening, including the reception area.

Mr. Matos read a statement from the SFAC in response to the complaint. According to the statement, the SFAC provided Mr. Warfield with copies of the requested recordings on audiotape and CD.

In a written response to the complaint, Ms. Ritchie stated that the SFAC has limited resources but did its best to accommodate Mr. Warfield's requests. She stated that the recordings need to be played in the SFAC conference room to avoid disturbing staff and that their single conference room is heavily used. She further stated that staff needs to be present while members of the public listen to recordings to maintain the security of recordings and equipment.

Ms. Ritchie also stated Mr. Warfield was provided with copies of the recordings on audiotape and CD that may be played on ordinary audio players, computers with CD drives, or at listening stations at the Main Public Library and many branch libraries.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Task Force found that audio recordings of SFAC meetings are public records subject to inspection pursuant to Sunshine Ordinance Section 67.14.

The Task Force observed that Sunshine Ordinance Section 67.21(a) requires "every person having custody of any public records" to allow inspection of the records "at normal times and during regular business hours, without unreasonable delay, and without requiring an appointment."

The Task Force further observed that California Public Records Act ("CPRA") Section 6253 requires public records be "open to inspection at all times during the office hours of the . . . local agency."

Based on the evidence presented and the SFAC's own admissions, the Task Force additionally found that Ms. Ritchie had required Library Users Association to make an appointment to listen to the requested audio recordings and had unreasonably restricted access to the SFAC's audio equipment to one hour during the regular work week. The Task Force did not find persuasive SFAC's argument that it was necessary to limit listening only to times its conference room was available, noting respondents' could have provided Library Users Association with earphones to avoid disturbing SFAC staff while listening.

Based on a review of the SFAC web site, the Task Force also found that the requested audio recordings are not available online.

DECISION AND ORDER OF DETERMINATION

The Task Force finds Sharon Page Ritchie and the SFAC in violation of Sunshine Ordinance Section 67.21(a) for requiring Library Users Association to make an appointment to review a public record, CPRA Section 6253 for restricting the time the Library Users Association had access to listen to the audio recordings, and Sunshine Ordinance Section 67.21(e) for failure to send a knowledgeable representative to the Task Force hearing on the complaint.

Sharon Page Ritchie and the SFAC shall make audio recordings of SFAC meetings available during normal and reasonable business hours, without unreasonable delay and without requiring an appointment, and shall appear before the Education, Outreach and Training Committee on Thursday, June 14, 2012 at 4:00 p.m. in Room 406 at City Hall. The Education, Outreach & Training Committee shall monitor Sharon Page Ritchie's and the SFAC's compliance with this Order.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on April 4, 2012, by the following vote: (Knee/Washburn)

Ayes: Costa, Knee, Manneh, Washburn, West, Johnson

Excused: Chan, Snyder, Wolfe

Absent: Cauthen



Hope Johnson, Chair
Sunshine Ordinance Task Force

cc: Peter Warfield, Library Users Association, Complainant
Sharon Page Ritchie, SFAC Secretary, Respondent
Tom DeCaigny, SFAC Director of Cultural Affairs, Respondent
Jerry Threet, Deputy City Attorney